



ATTORNEY DOCKET: 65608.01001

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: 65608.01001 : Examiner: Lynda Salvatore  
Applicant: Frank Cistone, et al. : Art Unit: 1771  
Filed: 28 February 2002 :  
For: MELT PROCESSABLE :  
PERFLUOROPOLYMER FORMS :  
Serial No: 10/087,212 :

Charles N. Quinn  
U.S.P.T.O. registration number 27,223  
Fox Rothschild LLP  
2000 Market Street, 10th Floor  
Philadelphia, PA., 19103-3291  
215-299-2135  
215-299-2150 (fax)  
cquinn@foxrothschild.com  
Deposit Account 50-1943

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

DECLARATION OF FRANK CISTONE

Sir:

I, Frank Cistone, hereby declare as follows:

1. I am a citizen of the United States and a resident of the Commonwealth of Pennsylvania, residing at 605 Radcliffe Ct., Newtown Square, PA 19073 USA.
2. I am the president of Xtreme Fibers, Inc., the co-owner of the above-referenced pending United States patent application.
3. I am a graduate of Drexel University holding a Doctor of Philosophy degree in Organic Chemistry, a Master of Science degree in Organic Chemistry and a Bachelor of Science degree in the Biological Sciences.
4. I have spent my entire professional career in the research and development of polymers and products made from them. Responsibilities have included general management, technical management, product management, strategic and technical consulting, and new business and commercial development. From the period 1984 to 1991 I worked in the fluoropolymers area for Allied Signal, then Ausimont USA. Hired as the product manager for FEP in 1984, responsibilities included the business and market development of Allied's newly introduced FEP product. In 1986 I was promoted to Director of Technology, with corporate-wide responsibilities for polymerization technology, applications development, and process engineering and intellectual property. I was also a member of the management committee, having a role in strategic business planning. After leaving Ausimont (now Solvay Solexis, Inc) in 1991, I was involved with the conception, formation, and realization of The Pantek group of companies. The group was comprised of several individual and corporate partners. The group included Pantek Asia, Ltd - a trading company with offices in Hong Kong, Pantek International - an engineering and technology company with offices in Hong Kong and Italy, Pantek USA,

(currently known as XTREME Fibers, Inc.) a technology company with offices in Pennsylvania, and Almatec SRL - a joint venture between the Pantek group and Guarniflon SPA, a fluoropolymer resin molder. Almatec purchased third world fluoropolymer resins and improved their quality through a proprietary process, giving Guarniflon a cost advantage over competitive molders using expensive western resins. In addition to contributing to the process technology and engineering at Almatec and coordinating importation of finished goods, I consulted with several well-known international fluoropolymer companies and other organizations interested in this technology. This required extensive international travel (Peoples Republic of China, South Africa, Europe). From 1995 to 1997, I accepted the position of Vice President of Technology & Operations for Nocopi Technologies, Inc., a manufacturer and licensor of covert antdiversion and authentication technologies (specialty inks and printing technology). In 1997 I reorganized Pantek USA (subsequently renamed XTREME Fibers, Inc.) to become a manufacturer of fluoropolymer fibers and yarns and has acted as President and CEO since. My experience in intellectual property development and management is extensive.

5. I have over 23 years of experience in that field.

6. I am an inventor of record on the above-referenced pending United States patent application and I make this declaration freely in support of opposition to a restriction requirement which has been made in connection with this application.

7. The decision of the patent examiner to "breakup" this patent application into three to six new patent applications would be a very real financial hardship to Xtreme Fibers, Inc. We are competing with very large corporate entities in an industrial market at a time when the

economy itself has been very difficult and it is also a point in our life cycle where developmental costs, including associated intellectual property costs, are very high and constitute a very large component of our operating budget. Intellectual property is not a luxury for us; it is an absolute necessity in the marketplace in which we compete and is critical to our ability to succeed.

8. The financial burden associated with the filing of multiple patent applications would have a detrimental effect on our ability to compete on a "level playing field" with the large companies with which we compete; accordingly any requirement for the filing of multiple patent applications would be very injurious to the prospects to Xtreme Fibers' future success and viability and therefore to our future success. We have already paid in excess of \$40,000 in official fees and counsel fees for the filing and nationalization of this one patent and the associated PCT. A simple multiple of 3-6 would put the short-term costs well out of the current financial capabilities of a start up company such as Xtreme Fibers, Inc.

9. If forced to choose we would probably choose her restriction class II in which she assigns claims 12-21,29,30 and 48-51 into class 442, subclass 327+ as the primary class to which she alleges the bulk of the technology in our patent application belongs. However that we should not be limited to subclass 327 + as the larger general class 442 includes woven and knitted textile or cloth as well as nonwoven.

10. We see no clear distinction, as the examiner has outlined it, for the other classifications of the claims and the examiner's comments in the context of the discussion with Mr. Stanitis on about claims 22-28, which the examiner reviews as encompassing a plethora of compositions, products and processes, and apparatuses placing them outside of the scope

intended by 35 U.S.C. 101 therefore being too broad to patent, and claims 52-47 the blended fiber claims relative to claims 22-28 as being not subject to restriction at this time.

11. I understand that a conversation between Mr. Stanitis and the examiner revealed that she believes that the claims are too broad and that blends would require separate patent applications. This is counter to the examiners acceptance of claims 48-51 as part of classification II in that these too are claims involving blends of fibers and her classification of claims 31-34 which are blends of yarns into woven or knitted fabrics into group I class 428, subclass 357+. It should also be noted that, in general, many patents in the textile area have claims encompassing both single fiber types and blends. It should also be noted that the industry itself almost always uses blends or mixtures of fibers in the manufacture of textile products.

12. As I understand the examination process the examiner has a responsibility to search in every class of patents that may contain prior or relevant art related to our claims. Even if we accept the examiners restriction to the group II classification the examiner would have to search all the other classifications, which she herself has identified as relevant and therefore will already have done the necessary search for the other claims.

13. We believe the claims assigned by the patent examiner to the three groups are not clearly distinct, in the technical sense of the word, from each other. Fibers and yarns can be both an intermediate or final form depending on the application. Dental floss, for example, can be formed from a continuously extruded multi filament yarn or from a spun yarn made by twisting staple fiber into yarn. Staple fibers can themselves be used as a filter by packing them together as with demisters and chromatographic columns for either gaseous or liquid separations. They can

also act as insulation when laid out onto a substrate or packed into an enclosed space as in the case of catalytic converters for automotive applications. Yarns can also be packed or wound by themselves into columns or onto tubes for filtration purposes or insulation purposes. These same staple fibers can be used to manufacture felts, which can be further treated and used as filtration or insulation media. Yarns can be woven or knitted into textile fabrics, which can be useful as filters themselves or as filter media or as insulation layers in clothing.

14. The number of examples in industry where nonwovens and woven or knitted fabrics act as insulation by themselves or in combination with other fabric layers are so numerous as to be prohibitive for citing here. Lightweight woven and nonwoven fabrics are used as binder layers to adhere woven and nonwoven fabrics to each other or to a multitude of other substrates in combination with membranes. Many times nonwovens have a woven scrim inside for support, strength or dimensional stability. Again these intermediate forms can be used as the filter itself or as a media for a filtration device. There are filtration devices known that use a yarn wound around a nonwoven felt on a tube as an example of a combination filter media. Paper mills have often employed woven fabric alone as a filter in the pulp process.

15. The core technology described in our patent application is that our perfluoropolymer fibers and yarns are melt processable leading to the ability to be used (as “final” products) as they are or to make intermediate forms (for subsequent processing) such as nonwoven, knitted and woven fabrics, either alone or in combination with other melt processable and non melt processable fibers and yarns, which can then be processed in all the ways available to other melt processable fibers and yarns and forms made from them like polyester and

polypropylene. This is not possible with PTFE fibers and yarns alone.

16. I hereby declare that all statements made herein are true and that all statements made herein on information and belief are believed to be true and further that I realize that false statements and the like so made herein are punishable by fine, or imprisonment or both, under 18 USC 1001, and further may jeopardize the validity and enforceability of any patent to issue from the application identified above.

Respectfully submitted,

Dated: January 26, 2004

FRANK CISTONE

**CERTIFICATE OF MAILING  
UNDER 37 C.F.R. 1.8(a)**

I hereby certify that this paper, along with any paper referred to as being attached or enclosed, is being deposited with the United States Postal Service on the date indicated below, with sufficient postage, as first class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Michi Lockner  
(signature)

BY: Michi Lockner

DATE: February 2, 2004

Fox Rothschild LLP  
2000 Market Street, Tenth Floor  
Philadelphia, PA 19103-3291  
Tel: 215-299-2135  
Fax: 215-299-2150  
Email: cquinn@foxrothschild.com